



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2016-0644; FRL-9982-96-Region 5]**

**Air Plan Approval; Ohio; Cleveland, PM<sub>2.5</sub> Attainment Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On October 14, 2016, the Ohio Environmental Protection Agency (OEPA) submitted a State Implementation Plan (SIP) submission for the 2012 Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) for the Cleveland nonattainment area. EPA proposed to approve the state's submittal on June 4, 2018.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2016-0644. All documents in the docket are listed in the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

through <http://www.regulations.gov>, or please contact the person identified in the "For Further Information Contact" section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR 18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever "we", "us" or "our" is used, we mean EPA.

#### **I. What is being addressed by this document?**

On June 4, 2018, at 83 FR 25608, EPA proposed to approve a revision to the SIP for the 2012 PM<sub>2.5</sub> NAAQS for the Cleveland nonattainment area. As required by the Clean Air Act (CAA), OEPA developed an attainment plan to address the Cleveland nonattainment area and evaluate the area's ability to attain the 2012 PM<sub>2.5</sub> NAAQS by the "Moderate" attainment date of December 31, 2021. The SIP submission addressed specific requirements as outlined in the CAA including: attainment demonstration; reasonable available control measure (RACM) analysis; emissions inventory requirements; reasonable further progress (RFP) with quantitative milestones; and nonattainment new source review (NNSR). Additionally, the SIP submission included optional PM<sub>2.5</sub> precursor demonstrations for NNSR and attainment planning

purposes. EPA evaluated the SIP submission and is approving portions of the submission as meeting the applicable CAA requirements for RACM, emissions inventory, attainment demonstration modeling, and precursor insignificance demonstrations for NNSR and attainment planning purposes. EPA is not acting on the other elements of the submission, including reasonable further progress (RFP), with quantitative milestones, and motor vehicle emission budgets (MVEBs).

## **II. What comments did we receive on the proposed SIP revision?**

Our June 4, 2018, proposed rule provided a 30-day review and comment period. The comment period closed on July 5, 2018. EPA received comments from three parties during the public comment period but all comments were completely outside of the scope of this action and therefore are not being addressed as part of this final action.

## **III. What action is EPA taking?**

EPA is approving a SIP revision submitted by Ohio EPA on October 14, 2016. Ohio's attainment demonstration modeling, and precursor analysis for both attainment planning RACM and nonattainment NNSR determined that VOCs and NH<sub>3</sub> do not significantly contribute to PM<sub>2.5</sub> concentrations in the area. EPA finds that Ohio's analysis is reasonable and well supported. EPA is thus approving the following elements of the 2012 SIP submission: the base year 2011 emissions inventory to meet the

section 172(c)(3) requirement for emission inventories; the demonstration of attainment for 2021 as meeting the statutory requirement in CAA 189(a)(1)(B); current controls as meeting RACM requirements of 172(c)(1) and 189(a)(1)(C).

#### **IV. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501

*et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a

petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 20, 2018.

Cathy Stepp,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In §52.1870, the table in paragraph (e) is amended by adding the subheading “Summary of Criteria Pollutant Attainment Plans” and the entry “PM<sub>2.5</sub> (2012)” before the subheading “Summary of Criteria Pollutant Maintenance Plan” to read as follows:

**§52.1870 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Applicable geographical or non-attainment area	State date	EPA Approval	Comments
* * * * *				
<b>Summary of Criteria Pollutant Attainment Plans</b>				
PM <sub>2.5</sub> (2012)	Cleveland	10/14/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	EPA is approving the following elements: the base year 2011 emissions inventory; the demonstration of attainment for 2021; current controls as meeting RACM requirements.
<b>Summary of Criteria Pollutant Maintenance Plan</b>				
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